

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4977-03
Bill No.: Perfected HCS for HB 1767
Subject: Disabilities; Elderly; Health Department
Type: Original
Date: April 19, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(Greater than \$100,000)	(Greater than \$100,000)	(Greater than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(GREATER THAN \$100,000)	(GREATER THAN \$100,000)	(GREATER THAN \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Nursing Facility Quality of Care Fund	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** and the **Department of Mental Health** assume this proposal would not fiscally impact their agencies.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** assume this proposal would not fiscally impact their agency. DMS assumes any money collected and deposited in the Nursing Facility Quality of Care Fund as stated in Section 192.2153.3 would be appropriated to the Department of Health and Senior Services.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to the schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be

ASSUMPTION (continued)

additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. SOS is provided with core funding to handle a certain amount of normal activity resulting from each years legislative session. The fiscal impact for Administrative Rules is less than \$1,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Health and Senior Services (DOH)** assume Section 192.2150.15 provides that all providers who report incidents will classify them as a self-report and will count or track them separately form other hotline calls. DOH states currently, only self-reporting by licensed long-term care facilities is tracked and is maintained separately from other complaints. DOH states the Central Registry Unit's mainframe and software systems would need to be modified to enable separate tracking of self-reports by other providers.

In addition, DOH is required to screen the sexual offender registry on any potential patient or new referral and to notify providers if any potential patient or resident is included on the registry at the time the referral is made. DOH states checking the sexual offender registry on all new referrals and potential clients and notifying providers when the individual is on the registry at the time that the referral is made will require additional time or man hours; however, DOH will absorb the additional time using existing staff.

DOH states the cost for this modification would be less than \$100,000.

Officials from the **State Public Defender** and the **Office of Prosecution Services** did not respond to our fiscal note request.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state with enhanced penalties for existing crimes, probation denials and creation of new crimes, the potential exists for the fiscal impact of this proposal to exceed \$100,000 per annum for the DOC although the exact amount is unknown.

Officials from the **Office of Attorney General** assume any costs associated with this proposal could be absorbed with existing resources.

Oversight assumes there would be an unknown amount of penalties collected and deposited into the Nursing Facility Quality of Care Fund in accordance with Section 192.2153.3.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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GENERAL REVENUE

Costs - Department of Health and Senior Services

Program costs	<u>(Less than \$100,000)</u>	<u>\$0</u>	<u>\$0</u>
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Costs - Department of Corrections

Program costs	<u>(Greater than \$100,000)</u>	<u>(Greater than \$100,000)</u>	<u>(Greater than \$100,000)</u>
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**ESTIMATED NET EFFECT ON
GENERAL REVENUE**

<u>(GREATER THAN \$100,000)</u>	<u>(GREATER THAN \$100,000)</u>	<u>(GREATER THAN \$100,000)</u>
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<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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NURSING FACILITY QUALITY OF CARE FUND

Income - Department of Health and Senior Services

Administrative Penalties	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT ON NURSING FACILITY QUALITY OF CARE FUND

<u>UNKNOWN</u>	<u>UNKNOWN</u>	<u>UNKNOWN</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Providers that are small businesses may be required to conduct supplemental background checks to ensure compliance with the additional disqualifying offenses in this proposal.

DESCRIPTION

This proposal makes the necessary statutory changes based on the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services. In its main provisions, the proposal:

- (1) Defines the terms "consumer," "patient," and "provider";
- (2) Requires the department to keep the names of individuals submitting abuse and misappropriation reports confidential unless the complainant agrees to the disclosure of his or her name, the name of the complainant is lawfully subpoenaed, the release of a name is required by the Administrative Hearing Commission, or the release of a name is requested by the Department of Social Services for the purpose of licensure under Chapter 210, RSMo;

DESCRIPTION (continued)

(3) Protects patients and the patients' family members from eviction, harassment, or retaliation due to the filing of a report of a violation or suspected violation of the laws or regulations of the substitute;

(4) Makes any person failing to file a required report guilty of a class A misdemeanor and any provider who knowingly conceals abuse or neglect that results in the death or serious injury of a patient guilty of a class D felony;

(5) Creates a fine of \$1,000, to be assessed by the Department of Health and Senior Services, for any provider who willfully and knowingly fails to report known abuse by an employee;

(6) Extends the time a person can be listed on the employee disqualification list by one year if he or she is employed in a prohibited position while on the list; and

(7) Restates the agency rule-making authority to make any rule effective only if it complies with and is subject to the provisions of Chapter 536, RSMo.

(8) Expands protection for the elderly against financial exploitation and codifies a presumption of undue influence in any transfer of real property or major transfer of personal property for less than full consideration to another person with whom the elderly or disabled person has a confidential or fiduciary relationship. To avoid a presumption of undue influence, the elderly person can be represented by independent counsel. Confidential or fiduciary relationships can include relationships between the elderly or disabled person and a family member by blood or marriage, a health care provider, a trustee, an accountant, a friend, a neighbor, a spiritual advisor, or an attorney. Courts may set aside any transfer where a finding of undue influence has been proved by the elderly individual. (Sections 192.925, 442.700, 442.703, 442.706, 442.709, 442.712, and 565.188).

(9) Defines "identity theft," "personal identifying information," and "victim of identity theft" and permits a person to bring a legal action against a claimant to establish that he or she is a victim of identity theft in connection with the claimant's claim against that person. If successful, the person will be entitled various declarations and damages as outlined in the proposal. (Sections 407.991, 407.992, 407.993, 407.995, and 407.996).

(10) Increases the severity of various sexual crimes against the elderly.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services
Department of Mental Health
Department of Elementary and Secondary Education
Secretary of State
Department of Health and Senior Services
Department of Corrections
Office of Attorney General
Office of State Courts Administrator

NOT RESPONDING: State Public Defender and Office of Prosecution Services

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 19, 2006